

STATEMENT OF EMERGENCY

907 KAR 1:045E

(1) This emergency administrative regulation is being promulgated to establish, effective July 1, 2005, that the community mental health center services reimbursement rates in effect on June 30, 2002 through June 30, 2005 shall continue to remain in effect throughout state fiscal year (SFY) 2006. The Department for Medicaid Services (DMS) is maintaining the SFY 2006 rate for community mental health center services at the SFY 2002 rate to maintain the financial viability of the Medicaid program.

(2) Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety, or welfare of Medicaid recipients whose receipt of services may be jeopardized due to a lack of funding.

(3) This emergency administrative regulation shall be replaced by an identical ordinary administrative regulation filed with the Regulations Compiler.

Ernie Fletcher
Governor

James W. Holsinger, Jr., M.D., Secretary
Cabinet for Health and Family Services

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Long Term Care and Community Alternatives

4 (Emergency Amendment)

5 907 KAR 1:045E. Payments for community mental health center services.

6 RELATES TO: KRS 205.520(3), 210.370[, ~~EO 2004-444~~]

7 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 42 C.F.R. 447.325, 42
8 U.S.C. 1396a-d

9 NECESSITY, FUNCTION, AND CONFORMITY: [~~EO 2004-444, effective May 11,~~
10 ~~2004, reorganized the Cabinet for Health Services and placed the Department for Medi-~~
11 ~~caid Services and the Medicaid Program under the Cabinet for Health and Family~~
12 ~~Services.~~] The Cabinet for Health and Family Services, Department for Medicaid Serv-
13 ices has responsibility to administer the program of Medical Assistance. KRS
14 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any re-
15 quirement that may be imposed, or opportunity presented by federal law for the provi-
16 sion of medical assistance to Kentucky's indigent citizenry. This administrative regula-
17 tion establishes the method for determining amounts payable by the Medicaid Program
18 for community mental health center services.

19 Section 1. Community Mental Health Centers. Participating in-state community men-
20 tal health centers shall be reimbursed as follows:

21 (1) Effective July 1, 2005 [~~2004~~] the payment rate that was in effect on June 30,

2002, for community mental health center services shall remain in effect throughout state fiscal year (SFY) 2006 [2005] and there shall be no cost settling.

(2) Allowable costs shall not exceed customary charges which are reasonable. Allowable costs shall not include the costs associated with political contributions, travel and related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities), the costs of motor vehicles used by management personnel which exceed \$20,000 total valuation annually (unless the excess cost is considered as compensation to the management personnel), and legal fees for unsuccessful lawsuits against the cabinet. However, costs (excluding transportation costs) for training or educational purposes outside the state shall be allowable costs.

Section 2. Implementation of Payment System. (1) Payments shall be based on units of service. One (1) unit for each service shall be defined as follows:

Service	Unit of Service
Inpatient Service	15 minutes
Individual Therapy	15 minutes
Group Therapy	15 minutes
Family Therapy	15 minutes
Collateral Therapy	15 minutes
Intensive In-Home Therapy	15 minutes
Home Visit Service	15 minutes
Emergency Service	15 minutes
Personal Care Home	15 minutes

Evaluations, Examinations, and Testing	15 minutes
Therapeutic Rehabilitation for Children	1 hour
Therapeutic Rehabilitation for Adults	1 hour
Chemotherapy Service	15 minutes
Physical Examinations	15 minutes

(2) An initial unit of service which lasts less than fifteen (15) minutes may be billed as one (1) unit.

(3) Except for an initial unit of a service, a service that is:

(a) Less than one-half ($1/2$) of one (1) unit shall be rounded down; or

(b) Equal to or greater than one-half ($1/2$) of one (1) unit shall be rounded up.

(4) An individual provider shall not exceed four (4) units of service in one (1) hour.

(5) Overpayments discovered as a result of audits shall be settled through recoupment or withholding.

(6) The vendor shall complete an annual cost report on forms provided by the cabinet (and included in Community Mental Health-Mental Retardation Reimbursement Manual) not later than ninety (90) days from the end of the vendor's accounting year and the vendor shall maintain an acceptable accounting system to account for the cost of total services provided, charges for total services rendered, and charges for covered services rendered eligible recipients.

(7) Each community mental health center shall make available to the cabinet at the end of each fiscal reporting period, and at intervals as the cabinet may require, all patient and fiscal records of the provider, subject to reasonable prior notice by the cabinet.

1 (8) Payments due a community mental health center shall be made at reasonable
2 intervals but not less often than monthly.

3 Section 3. Nonallowable Costs. The cabinet shall not make reimbursement under the
4 provisions of this administrative regulation for services not covered by 907 KAR 1:044,
5 mental health center services, nor for that portion of a community mental health center's
6 costs found unreasonable or nonallowable in accordance with the "Community Mental
7 Health - Mental Retardation Reimbursement Manual".

8 Section 4. Reimbursement of Out-of-state Providers. Reimbursement to participating
9 out-of-state community mental health centers shall be the lower of charges, or the facil-
10 ity's rate as set by the state Medicaid Program in the other state, or the upper limit for
11 that type of service in effect for Kentucky providers.

12 Section 5. Appeal Rights. A provider may appeal a Department for Medicaid Services
13 decision as to the application of this administrative regulation in accordance with 907
14 KAR 1:671.

15 Section 6. Incorporation by Reference. (1) The "Community Mental Health - Mental
16 Retardation Reimbursement Manual, July 2005 [~~2004~~] edition", is incorporated by refer-
17 ence.

18 (2) This material may be inspected, copied, or obtained, subject to applicable copy-
19 right law, at the Department for Medicaid Services, 275 East Main Street, Frankfort,
20 Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

907 KAR 1:045E

Date

Shannon Turner, J.D., Commissioner
Department for Medicaid Services

Date

Mike Burnside
Undersecretary for Administration and Fiscal Affairs

APPROVED:

Date

James W. Holsinger, Jr., M.D., Secretary
Cabinet for Health and Family Services

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 907 KAR 1:045E
Cabinet for Health and Family Services
Department for Medicaid Services
Agency Contact Person: Stuart Owen (502) 564-6204

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes the reimbursement methodology for community mental health center services.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary in order to establish the reimbursement methodology for community mental health center services.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the reimbursement methodology for community mental health center services.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation currently assists in the effective administration of the statutes by establishing the reimbursement methodology for community mental health center services.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation. This administrative regulation is being amended to establish effective July 1, 2005, that the reimbursement rate for community mental health center services in effect on June 30, 2002 shall remain in effect throughout state fiscal year (SFY) 2006.
 - (b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to maintain the financial viability of the Medicaid program.
 - (c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by establishing community mental health center service reimbursement for SFY 2006.
 - (d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by establishing community mental health center service reimbursement for SFY 2006.
- (3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: There are fourteen (14) community mental health centers providing services.

- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Community mental health service providers will continue to receive throughout SFY 2006 the rate in effect as of June 30, 2002 .
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
 - (a) Initially: Implementing this administrative regulation will not generate any additional costs to the Department for Medicaid Services (DMS) given that it continues a prior rate freeze into state fiscal year (SFY) 2005.
 - (b) On a continuing basis: Implementing this administrative regulation will not generate any additional costs to the Department for Medicaid Services (DMS) given that it continues a prior rate freeze into SFY 2005.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds authorized under Title XIX and Title XXI of the Social Security Act and state matching funds shall be used to implement the amendment to this administrative regulation.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendment to this administrative regulation does not increase any fee nor does it require any additional funding.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment to this administrative regulation does not establish any fees directly or indirectly.
- (9) Tiering: Is tiering applied? (Explain why tiering was or was not used)

Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The “equal protection” and “due process” clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES

907 KAR 1:045E

Payments for Community Mental Health Center Services

Summary of Material Incorporated by Reference

The “Community Mental Health-Mental Retardation Reimbursement Manual, July 2005 edition” replaces the July 2004 edition. The manual is used by agency staff and participating community mental health centers. The total number of pages incorporated by reference into this administrative regulation is 191 pages.

Page 106.A02 of Part 1 of the manual’s general policy and guidelines section was added to establish state fiscal year 2006 reimbursement language.